IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 10893 of 2004

Between:

Qazi Habeeb Abdullah Rifai s/o Habeeb Ali Rifai Occ.Qazi R/o Hyderabad

... PETITIONER

AND

1 The Principal Secretary to Government, Minorities Welfare Department Government of Andhra Pradesh, Secretariat, Hyderabad
2 The Chief Executive Officer, A.P. State Wakf Board, Hyderabad

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or direction in the nature of Mandamus declaration the action of the respondent in issuing the impugned proceedings Viz G.O.Rt. No. 240 dated 04-06-2004 as illegal, arbitrary, Un-constitutional and without jurisdiction consequently to set a side the proceedings of the 2nd respondent dated 17-6-2004

For the Petitioner: Mr. K.PRATAP REDDY, Senior Counsel, MR.T.SRIKANTH REDDY, Advocate

For the Respondent No.1: GP For Social Welfare

Counsel for the Respondent No.2: MR.A.M.QURESHI (SC FOR AP WAKF BOARD)

The Court made the following order:

ORDER:

Heard learned senior counsel for the petitioner Sri K. Pratap Reddy, the Government Pleader for Social Welfare and Mr. A.M. Qureshi, Standing Counsel appearing for AP WAKF Board and at their request the main writ petition is taken up for disposal.

2. The petitioner herein, who is a Qazi, filed this writ petition, *inter alia,* seeking Writ of Mandamus, challenging the impugned order G.O.Rt.No.240 dated 04.06.2004 where under the petitioner was suspended from the post of Qazi pending enquiry.

3. The case of the petitioner is that having regard to the marriage performed by his deputy, Naib Qazi Mr. Ahmed Shareef, between a foreigner, who is an Arab Shaik of United Arab Emirates with Haseena Begum, a complaint was lodged on the ground that she was 19 years old whereas the shaik was 73 years old and the marriage was performed on 07.05.2004. Everything went on well for

some time, however, later they fell apart, giving rise to demands and complaints and thereby the girl, Haseena Begum was left with much agony. Therefore, the petitioner, being party to such marriage, there is a *prima facie* case, which requires to be enquired into, during which he was to be suspended.

4. It is submitted on behalf of the petitioner that having regard to the nature of duties and responsibilities of a Qazi, they are not concerned with the other aspects and if the parties come before them for performance of marrying they have to discharge their duties. Therefore, they do not play any role in regard to any such interaction between the two marriage couples or their parents etc. Therefore, the petitioner cannot be suspended and the impugned order is illegal and void.

5. The learned Government Pleader and also the Standing Counsel for AP Wakf Board appearing for the respondents submitted that having regard to the social problems which occur very often in the Muslim Community, and an Enquiry Officer was already appointed and the date of enquiry was already fixed as 12.08.2004, it is not necessary to suspend the impugned orders. Further, having regard to the nature of allegations, the petitioner is not entitled for any indulgence.

6. Having regard to the submissions made by the learned counsel for the petitioner and both the counsel on behalf of the respondents and on perusal of the material on record, it is seen that the petitioner is only discharging his duties as Qazi. No doubt, he is a party to such marriage, where a very old man is being married to an young girl and it is his obligation to see that no such marriages take place, which ultimately lead to many practical problems arising in the community and this has become a social problem.

7. In the circumstances, it is necessary that a proper and comprehensive enquiry is to be conducted and proper action is to be taken against all the persons concerned with a view to shape down the social malice. Now that the

enquiry has already been initiated and an enquiry officer is appointed and date is also fixed, it is not necessary to go into the allegations made on either side. It would suffice; to direct the concerned authority to complete the enquiry.

The writ petition is disposed of directing the enquiry officer to complete the enquiry expeditiously within a period of one month from the date of receipt of a copy of this order. Pending disposal of the enquiry, the impugned orders are suspended only to the extent of allowing the petitioner to perform the marriages amongst the local Indian muslims. Further the petitioner shall not be permitted to perform any marriage between Indians with any foreigner.

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(B. PRAKASH RAO, J)

August 5, 2004

Dsk/Stv

TO

1. The Principal Secretary to Government Minorities Welfare Department,

Government. of Andhra Pradesh, Secretariat, Andhra Pradesh, Hyderbad.

2. The Chief Executive Officer, AP State Wakf Board, Hyderabad

3. Two CCs to GP for Social Welfare, High Court Buildings, Hyderabad.

4. Two CD Copies.